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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
7

8 BLUESTONE INNOVATIONS LLC,

No. C 12-00059 SI

9 Plaintiff,

**ORDER RE: ADMINISTRATIVE
MOTION TO SEAL**

10 v.

11 NICHIA CORP.; NICHIA AMERICA CORP.,

12 Defendant.
13 _____/

14 On March 8, 2013, the parties stipulated to an administrative motion to file documents under seal
15 in the Nichia defendants' motion to dismiss for lack of standing. The parties stipulate to seal: (1) the
16 entire motion; (2) the entirety of the Exhibits 2-7, 9-10, and 13-20 of the Declaration of Brian Egan; (3)
17 the entirety of the Declaration of Yuji Matsuyama; and (4) Exhibits A-C of the Matsuyama Declaration.
18 Decl. of Brian P. Egan in Supp. of Stipulation to File Under Seal ("Egan Decl.") ¶¶ 2-3. They argue
19 these should be sealed because Nichia, Bluestone, and third parties Thompson Licensing, LLC and
20 Xerox Corporation have designated these documents "Confidential" or "Highly Confidential—Attorneys'
21 Eyes Only." Only Nichia has provided a declaration supporting the motion to seal. Nichia argues that
22 the Matsuyama Declaration and Exhibits A-C should be sealed because they contain "confidential
23 business information" which provides "a business advantage to Nichia and Nichia's customers and is
24 not generally known or publically available." *Id.* ¶ 6.

25 "A stipulation, or a blanket protective order that allows a party to designate documents as
26 sealable, will not suffice to allow the filing of documents under seal." Civ. L.R. 79-5(a). With the
27 exception of a narrow range of documents that are "traditionally kept secret," courts begin their sealing
28 analysis with "a strong presumption in favor of access." *Foltz v. State Farm Mut. Auto. Ins.*, 331 F.3d

1 1122, 1135 (9th Cir. 2003). When applying to file documents under seal in connection with a non-
 2 dispositive motion, a showing of “good cause” under Federal Rule of Civil Procedure 26(c) is sufficient
 3 for the Court to file the documents under seal. *Kamakana v. City and County of Honolulu*, 447 F.3d
 4 1172, 1179-80 (9th Cir. 2006); *see also* Fed. R. Civ. P. 26(c). To show good cause, the moving party
 5 must still make a “particularized showing” that “specific harm or prejudice will result if the information
 6 is disclosed.” *Kamakana*, 447 F.3d at 1179-80; *Apple, Inc. v. Samsung Elecs. Co. Ltd.*, Case No.
 7 11-CV-01846 LHK (PSG), 2012 WL 4120541, at *1 (N.D. Cal. Sept. 18, 2012). “Simply mentioning
 8 a general category of privilege, without any further elaboration or any specific linkage with the
 9 documents, does not satisfy the burden.” *Kamakana*, 447 F.3d at 1184. Neither do “[b]road allegations
 10 of harm, unsubstantiated by specific examples or articulated reasoning.” *Phillips*, 307 F.3d at 1211.

11 The parties have failed to make a particularized showing that good cause exists for these
 12 documents to be filed under seal. Their blanket assertions that documents contain confidential
 13 information or were designated “Attorneys’ Eyes Only” are insufficient, and merely stipulating to file
 14 the documents under seal is not enough.¹ *See* Local Rule 79-5(a). Moreover, Nichia’s vague assertions
 15 that documents contain information that provides a “business advantage” and are not generally known
 16 does not show a specific harm or prejudice. It is not enough to overcome the strong presumption in
 17 favor of access and seal documents in their entirety.

18 Accordingly, the parties shall make the requisite showing that the documents at issue are
 19 sealable, **no later than April 1, 2013**. If the parties do not do so, the documents will be made part of
 20 the public record.

21
 22 **IT IS SO ORDERED.**

23 Dated: March 25, 2013



24 SUSAN ILLSTON
 25 United States District Judge

26
 27
 28 ¹The parties also failed to follow Local Rule 79-5(d), which requires the designating party to file a declaration establishing the document is sealable within 7 days of the filing of the motion to seal.